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By: **Delegates Marriott, Benson, Carter, Gutierrez, Hubbard, Kirk, Lee, and Menes**

Introduced and read first time: February 6, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the exclusive jurisdiction of the juvenile court to  
4 include proceedings involving certain children alleged to have committed certain  
5 acts; requiring a hearing to waive jurisdiction of the juvenile court to be held  
6 within a certain time period; requiring a child to be represented by counsel at a  
7 certain hearing; requiring the court to grant certain continuances; repealing  
8 provisions of law authorizing a juvenile court exercising jurisdiction over a child  
9 to waive its jurisdiction after summary review under certain circumstances;  
10 repealing provisions of law authorizing a court exercising criminal jurisdiction  
11 to transfer jurisdiction to the juvenile court under certain circumstances;  
12 repealing provisions of law prohibiting a court exercising criminal jurisdiction  
13 from transferring jurisdiction to the juvenile court under certain circumstances;  
14 making certain conforming changes; providing for the application of this Act;  
15 and generally relating to the jurisdiction of the juvenile court.

16 BY repealing and reenacting, with amendments,  
17 Article - Courts and Judicial Proceedings  
18 Section 3-8A-03(d) and 3-8A-06  
19 Annotated Code of Maryland  
20 (2002 Replacement Volume)

21 BY repealing  
22 Article - Criminal Procedure  
23 Section 4-202  
24 Annotated Code of Maryland  
25 (2001 Volume and 2002 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Criminal Procedure  
28 Section 10-215(a)(21) and 10-216(e)(1)  
29 Annotated Code of Maryland

1 (2001 Volume and 2002 Supplement)  
2 BY repealing and reenacting, without amendments,  
3 Article - Education  
4 Section 7-303(a)(1)  
5 Annotated Code of Maryland  
6 (2001 Replacement Volume and 2002 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article - Education  
9 Section 7-303(a)(5)(ii)  
10 Annotated Code of Maryland  
11 (2001 Replacement Volume and 2002 Supplement)

12 BY renumbering  
13 Article - Criminal Procedure  
14 Section 4-202.1 and 4-202.2, respectively,  
15 to be Section 4-202 and 4-202.1, respectively  
16 Annotated Code of Maryland  
17 (2001 Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Courts and Judicial Proceedings**

21 3-8A-03.

22 (d) The court does not have jurisdiction over:

23 (1) [A child at least 14 years old alleged to have done an act which, if  
24 committed by an adult, would be a crime punishable by death or life imprisonment, as  
25 well as all other charges against the child arising out of the same incident, unless an  
26 order removing the proceeding to the court has been filed under § 4-202 of the  
27 Criminal Procedure Article;

28 (2)] A child at least 16 years old alleged to have done an act in violation of  
29 any provision of the Transportation Article or other traffic law or ordinance, except an  
30 act that prescribes a penalty of incarceration;

31 [(3)] (2) A child at least 16 years old alleged to have done an act in  
32 violation of any provision of law, rule, or regulation governing the use or operation of  
33 a boat, except an act that prescribes a penalty of incarceration; OR

34 [(4) A child at least 16 years old alleged to have committed any of the  
35 following crimes, as well as all other charges against the child arising out of the same

1 incident, unless an order removing the proceeding to the court has been filed under §  
2 4-202 of the Criminal Procedure Article:

- 3 (i) Abduction;
- 4 (ii) Kidnapping;
- 5 (iii) Second degree murder;
- 6 (iv) Manslaughter, except involuntary manslaughter;
- 7 (v) Second degree rape;
- 8 (vi) Robbery under § 3-403 of the Criminal Law Article;
- 9 (vii) Second degree sexual offense under § 3-306(a)(1) of the  
10 Criminal Law Article;
- 11 (viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal  
12 Law Article;
- 13 (ix) A crime in violation of Article 27, § 445, § 446, or § 481C of the  
14 Code;
- 15 (x) Using, wearing, carrying, or transporting a firearm during and  
16 in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
- 17 (xi) Use of a firearm under § 5-622 of the Criminal Law Article;
- 18 (xii) Carjacking or armed carjacking under § 3-405 of the Criminal  
19 Law Article;
- 20 (xiii) Assault in the first degree under § 3-202 of the Criminal Law  
21 Article;
- 22 (xiv) Attempted murder in the second degree under § 2-206 of the  
23 Criminal Law Article;
- 24 (xv) Attempted rape in the second degree under § 3-310 of the  
25 Criminal Law Article or attempted sexual offense in the second degree under § 3-312  
26 of the Criminal Law Article;
- 27 (xvi) Attempted robbery under § 3-403 of the Criminal Law Article;  
28 or
- 29 (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the  
30 Criminal Law Article;
- 31 (5) A child who previously has been convicted as an adult of a felony and  
32 is subsequently alleged to have committed an act that would be a felony if committed

1 by an adult, unless an order removing the proceeding to the court has been filed  
2 under § 4-202 of the Criminal Procedure Article; or

3 (6)] (3) A peace order proceeding in which the victim, as defined in §  
4 3-8A-01(v)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of  
5 the Family Law Article.

6 3-8A-06.

7 (a) The court may waive the exclusive jurisdiction conferred by § 3-8A-03 of  
8 this subtitle with respect to a petition alleging delinquency by:

9 (1) A child who is 15 years old or older; or

10 (2) A child who has not reached his 15th birthday, but who is charged  
11 with committing an act which if committed by an adult, would be punishable by death  
12 or life imprisonment.

13 (b) (1) The court may not waive its jurisdiction under this section until after  
14 it has conducted a waiver hearing, held prior to an adjudicatory hearing and after  
15 notice has been given to all parties as prescribed by the Maryland Rules. The waiver  
16 hearing is solely to determine whether the court should waive its jurisdiction.

17 (2) A WAIVER HEARING SHALL BE HELD WITHIN 14 DAYS AFTER THE  
18 FILING OF A PETITION ALLEGING DELINQUENCY.

19 (3) A CHILD SHALL BE REPRESENTED BY COUNSEL AT A WAIVER  
20 HEARING.

21 (4) IN SCHEDULING A WAIVER HEARING UNDER THIS SECTION, THE  
22 COURT SHALL GRANT ALL REASONABLE REQUESTS FOR CONTINUANCE OF THE  
23 HEARING.

24 (c) (1) Notice of the waiver hearing shall be given to a victim as provided  
25 under § 11-104 of the Criminal Procedure Article.

26 (2) (i) A victim may submit a victim impact statement to the court as  
27 provided in § 11-402 of the Criminal Procedure Article.

28 (ii) This paragraph does not preclude a victim who has not filed a  
29 notification request form under § 11-104 of the Criminal Procedure Article from  
30 submitting a victim impact statement to the court.

31 (iii) The court may consider a victim impact statement in  
32 determining whether to waive jurisdiction under this section.

33 (d) (1) The court may not waive its jurisdiction under this section unless it  
34 determines, from a preponderance of the evidence presented at the hearing, that the  
35 child is an unfit subject for juvenile rehabilitative measures.



1           (2)     the alleged crime is excluded from the jurisdiction of the juvenile  
2 court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and

3           (3)     the court determines by a preponderance of the evidence that a  
4 transfer of its jurisdiction is in the interest of the child or society.

5       (c)     The court may not transfer a case to the juvenile court under subsection (b)  
6 of this section if:

7           (1)     the child previously has been transferred to juvenile court and  
8 adjudicated delinquent;

9           (2)     the child was convicted in an unrelated case excluded from the  
10 jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or

11          (3)     the alleged crime is murder in the first degree and the accused child  
12 was 16 or 17 years of age when the alleged crime was committed.

13       (d)     In determining whether to transfer jurisdiction under subsection (b) of this  
14 section, the court shall consider:

15           (1)     the age of the child;

16           (2)     the mental and physical condition of the child;

17           (3)     the amenability of the child to treatment in an institution, facility, or  
18 program available to delinquent children;

19           (4)     the nature of the alleged crime; and

20           (5)     the public safety.

21       (e)     In making a determination under this section, the court may order that a  
22 study be made concerning the child, the family of the child, the environment of the  
23 child, and other matters concerning the disposition of the case.

24       (f)     The court shall make a transfer determination within 10 days after the  
25 date of a transfer hearing.

26       (g)     If the court transfers its jurisdiction under this section, the court may  
27 order the child held for an adjudicatory hearing under the regular procedure of the  
28 juvenile court.

29       (h)     (1)     Pending a determination under this section to transfer its  
30 jurisdiction, the court may order a child to be held in a secure juvenile facility.

31           (2)     A hearing on a motion requesting that a child be held in a juvenile  
32 facility pending a transfer determination shall be held not later than the next court  
33 day, unless extended by the court for good cause shown.

1 (i) (1) A victim or victim's representative shall be given notice of the  
2 transfer hearing as provided under § 11-104 of this article.

3 (2) (i) A victim or a victim's representative may submit a victim  
4 impact statement to the court as provided in § 11-402 of this article.

5 (ii) This paragraph does not preclude a victim or victim's  
6 representative who has not filed a notification request form under § 11-104 of this  
7 article from submitting a victim impact statement to the court.

8 (iii) The court shall consider a victim impact statement in  
9 determining whether to transfer jurisdiction under this section.

10 (j) At a bail review or preliminary hearing before the District Court involving  
11 a child whose case is eligible for transfer under subsection (b) of this section, the  
12 District Court may order that a study be made under the provisions of subsection (e)  
13 of this section, or that the child be held in a secure juvenile facility under the  
14 provisions of subsection (h) of this section, regardless of whether the District Court  
15 has criminal jurisdiction over the case.]

16 10-215.

17 (a) The following events are reportable events under this subtitle that must be  
18 reported to the Central Repository in accordance with § 10-214 of this subtitle:

19 (21) an adjudication of a child as delinquent:

20 (i) if the child is at least 14 years old, for an act [described in §  
21 3-8A-03(d)(1) of the Courts Article; or] WHICH, IF COMMITTED BY AN ADULT, WOULD  
22 BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT  
23 WITHOUT THE POSSIBILITY OF PAROLE;

24 (ii) if the child is at least 16 years old, for an act [described in §  
25 3-8A-03(d)(4) or (5) of the Courts Article] WHICH, IF COMMITTED BY AN ADULT,  
26 WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

27 1. ABDUCTION;

28 2. KIDNAPPING;

29 3. SECOND DEGREE MURDER;

30 4. MANSLAUGHTER, EXCEPT INVOLUNTARY  
31 MANSLAUGHTER;

32 5. SECOND DEGREE RAPE;

33 6. ROBBERY UNDER § 3-403 OF THE CRIMINAL LAW ARTICLE;

34 7. SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306(A)(1)  
35 OF THE CRIMINAL LAW ARTICLE;

1 8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307(A)(1) OF  
2 THE CRIMINAL LAW ARTICLE;

3 9. A CRIME IN VIOLATION OF ARTICLE 27, § 445, § 446, OR §  
4 481C OF THE CODE OR § 4-203, § 4-204, § 4-404, OR § 4-405 OF THE CRIMINAL LAW  
5 ARTICLE;

6 10. USING, WEARING, CARRYING, OR TRANSPORTING A  
7 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER § 5-621  
8 OF THE CRIMINAL LAW ARTICLE;

9 11. USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW  
10 ARTICLE;

11 12. CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF  
12 THE CRIMINAL LAW ARTICLE;

13 13. ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE  
14 CRIMINAL LAW ARTICLE;

15 14. ATTEMPTED MURDER IN THE SECOND DEGREE UNDER §  
16 2-206 OF THE CRIMINAL LAW ARTICLE;

17 15. ATTEMPTED RAPE IN THE SECOND DEGREE UNDER § 3-310  
18 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED SEXUAL OFFENSE IN THE SECOND  
19 DEGREE UNDER § 3-312 OF THE CRIMINAL LAW ARTICLE; OR

20 16. ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL  
21 LAW ARTICLE; AND

22 (III) IF THE CHILD IS AT LEAST 16 YEARS OLD AND HAS BEEN  
23 PREVIOUSLY CONVICTED AS AN ADULT OF A FELONY, FOR AN ACT THAT WOULD BE A  
24 FELONY IF COMMITTED BY AN ADULT;

25 10-216.

26 (e) (1) This subsection only applies to an adjudication of delinquency of a  
27 child:

28 (i) [for an act described in § 3-8A-03(d)(1) of the Courts Article] if  
29 the child is at least 14 years old FOR AN ACT WHICH, IF COMMITTED BY AN ADULT,  
30 WOULD BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE  
31 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE; [or]

32 (ii) [for an act described in § 3-8A-03(d)(4) or (5) of the Courts  
33 Article] if the child is at least 16 years old FOR AN ACT WHICH, IF COMMITTED BY AN  
34 ADULT, WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

35 1. ABDUCTION;

36 2. KIDNAPPING;



- 1 (5) "Reportable offense" means:
- 2 (ii) Any of the FOLLOWING offenses [enumerated in §  
3 3-8A-03(d)(4) of the Courts Article]:
- 4 1. ABDUCTION;
  - 5 2. KIDNAPPING;
  - 6 3. SECOND DEGREE MURDER;
  - 7 4. MANSLAUGHTER, EXCEPT INVOLUNTARY  
8 MANSLAUGHTER;
  - 9 5. SECOND DEGREE RAPE;
  - 10 6. ROBBERY UNDER § 3-403 OF THE CRIMINAL LAW ARTICLE;
  - 11 7. SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306(A)(1)  
12 OF THE CRIMINAL LAW ARTICLE;
  - 13 8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307(A)(1) OF  
14 THE CRIMINAL LAW ARTICLE;
  - 15 9. A CRIME IN VIOLATION OF ARTICLE 27, § 445, § 446, OR §  
16 481C OF THE CODE OR § 4-203, § 4-204, § 4-404, OR § 4-405 OF THE CRIMINAL LAW  
17 ARTICLE;
  - 18 10. USING, WEARING, CARRYING, OR TRANSPORTING A  
19 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER § 5-621  
20 OF THE CRIMINAL LAW ARTICLE;
  - 21 11. USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW  
22 ARTICLE;
  - 23 12. CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF  
24 THE CRIMINAL LAW ARTICLE;
  - 25 13. ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE  
26 CRIMINAL LAW ARTICLE;
  - 27 14. ATTEMPTED MURDER IN THE SECOND DEGREE UNDER §  
28 2-206 OF THE CRIMINAL LAW ARTICLE;
  - 29 15. ATTEMPTED RAPE IN THE SECOND DEGREE UNDER § 3-310  
30 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED SEXUAL OFFENSE IN THE SECOND  
31 DEGREE UNDER § 3-312 OF THE CRIMINAL LAW ARTICLE; OR
  - 32 16. ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL  
33 LAW ARTICLE;

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-202.1 and  
2 4-202.2, respectively, of Article - Criminal Procedure of the Annotated Code of  
3 Maryland be renumbered to be Section(s) 4-202 and 4-202.1, respectively.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
5 construed to apply only prospectively and may not be applied or interpreted to have  
6 any effect on or application to any case filed before the effective date of this Act.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2003.